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10/693,485	10/27/2003	Toshihiko Uno	117571	3123

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EXAMINER	
MILLER, CHERYL L	
ART UNIT	PAPER NUMBER
3738	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/693,485	UNO ET AL.	
	Examiner	Art Unit	
	Cheryl Miller	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

However, since the previous references have been applied in the current rejection, the examiner has responded to applicants arguments.

The applicant has argued that Canon JP 2002-177306, does not disclose pores and grooves in an optical part. The examiner disagrees. In figures 3 and 5 of Canon, the optical part may be considered 1+2 or 11, every region inside of the haptic support elements 3, 13. Thus, pores 11a and 2a and grooves 2b and 12b are shown within this optic region 1+2 or 11. Further, in fig.4, the pores 11a are shown in the inner portion of optic, portion 11 (see P0019 of English translation) and even if applicant were to consider portion 2 to be part of the support instead of the optic, grooves 12b would be placed then on the support and still read on claim 1. Although a center pore is not shown in Canon, it would have been obvious to relocate the parts, since the feature has already been taught in other locations nearby for the same purpose and would be obvious. Placement of a pore is obvious to move, as it is known to one skilled in the art, see US 5,480,428; 4,624,669; and 4,994,080 that each show prior art lenses with center pores in the optic for travel of aqueous humor. In light of the state of the art and such a feature being know to those skilled in the art, it would be a mere relocation of parts to have other pores on the Canon lens.

The applicant has further argued that Feingold US 5,913,898, does not disclose a plurality of pores centered on the optic center and a center pore. The examiner disagrees. Feingold

discloses a plurality of pores (col.2, lines 44-46, 53-56). Feingold give an example of use with the pores at the periphery of the optic, however, this is just one mere example of Feingold's possible placements of pores in the optic, not the only configuration and it is obvious that they may be placed at different locations on the optic, since they are performing the same function at each location, circulation of aqueous humor. Further, even if the pores could only be placed at the periphery of the optic, they still may be considered to center around the center of the optic, they would surround the optic symmetrically and be located more inwardly (centerly) than the haptic support members. A center pore is shown at 86 in figs.22, 23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Canon Inc (JP 2002-177306, cited in IDS). Canon discloses an IOL adapted for placement between the iris and the crystalline lens (P0011 of English translation; figs.1-4) including an optical part (11 or 1+2) having a meniscus shape (seen in figs.1, 3) with a back surface configured to be larger in curvature than the natural crystalline lens (discloses reduction of touch zones between the natural lens and IOL; P0019 of English translation; is capable of being larger than natural lens, this is intended use and Canon's lens is capable of being placed in any size eye, baby or adult) and larger in diameter than a pupil (Canon's lens has the capability of being implanted in a patient with a smaller sized pupil), the optical part (1+2 or 11) having a refractive power, and a plurality

of fine pores (11a in fig.4; or 2a in fig.2) formed through the optical part centered on the optical center (see fig.4 for example, pores 11a center around center of optic) to allow aqueous humor to pass therethrough (P0019), a support part (13 or 3) having a length capable of being inserted into a ciliary groove, wherein a back surface of *at least one* of an optical part and the support part (in Canon's case, the optic part) is formed with a groove (12b or 2b) in a portion adapted to make contact with the crystalline lens, the groove adapted to allow aqueous humor to flow (P0019). Canon discloses the intraocular lens having pores and grooves substantially as claimed for the same purpose of applicant, minimize contact with the natural lens and help circulate aqueous humor. Canon does not however, disclose any size for the pores or location of a pore in the center of the lens. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have pore sizes ranging between 0.1um and 0.1mm, since Canon's pores are used for the same purpose, passage of aqueous humor, and such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Also it would have been obvious for a pore to be place in the center of the optic, since Canon has already shown a distribution of pore in other locations of the optic for circulation of aqueous humor and it would have been an obvious relocation of part to place pores in the center as well, which a mere relocation of parts involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feingold (US 5,913,898, cited previously). Feingold discloses an IOL (see figs.20-24 and disclosed features)

adapted for placement between the iris and the crystalline lens (as seen in figs) including an optical part (74, 84) having a meniscus shape with a back surface configured to be larger in curvature than the natural crystalline lens (col.5, lines 23-29; meniscus shown in fig.1 for example) and larger in diameter than a pupil, the optical part having a refractive power, and a plurality of fine pores (86; fig.22, 23; col.5, lines 44-50; plurality disclosed, col.2, lines 44-46, 54-56) formed through the optical part centered on the optical center (even pores along the periphery of the optic may be considered to be centered on the optical center, since they surround the optical center and are nearer in than the support elements) and a center pore (86, fig.22, 23) to allow aqueous humor to pass therethrough (col.1, lines 57-61), a support part (72, 82) having a length capable of being inserted into a ciliary groove, wherein a back surface of *at least one* of an optical part and the support part is formed with a groove (grooves are disclosed to be located on the anterior or posterior surface for the same purpose of allowing the flow of aqueous fluid; col.2, line 18-55) in a portion adapted to make contact with the crystalline lens, the groove adapted to allow aqueous humor to flow. See also col.6, lines 20-67 for disclosure of the use of combination of features, grooves and pores. Feingold has disclosed many various features as pores and grooves (see abstract and col.2 of specification), however hasn't specifically shown all features used in combination in one figured embodiment nor the size of the pores. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine multiple disclosed features of Feingold, such as grooves and pores and their locations, since they have all been disclosed for the purpose of circulating humor and minimizing contact, thus would be obvious to one skilled in the art to use multiple features disclosed at the same time. It also would have been obvious to one having ordinary skill in the art at the time the

invention was made to have pore sizes ranging between 0.1um and 0.1mm, since Feingold's pores are used for the same purpose, passage of aqueous humor, and such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cheryl Miller

BRUCE SNOW
PRIMARY EXAMINER